97-84084-3

Tilton, Frederic Arthur

The free mail privilege

[Washington, D.C.]

[1930]

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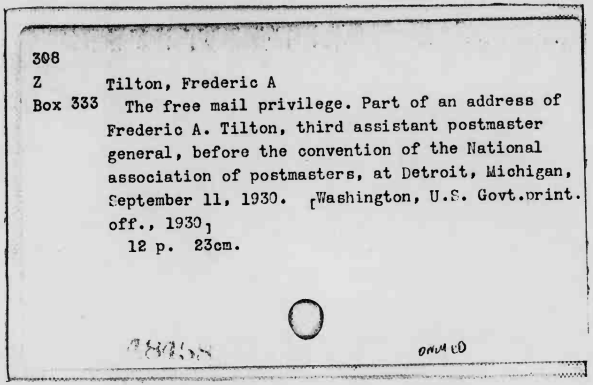
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Box 333 The free mail privilege. Part of an address of Frederic A. Tilton, third assistant postmaster general, before the convention of the National association of postmasters, at Detroit, Michigan, September 11, 1930. [Washington, U.S. Govt.print. off., 1930]
12 p. 23cm.

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TECHNICAL MICROFORM DATA

FILM SIZE: 35mm REDUCTION RATIO: 11:1 IMAGE PLACEMENT: IA (IIA) IB IIB

DATE FILMED: 5/12/97 INITIALS: TLM

TRACKING # : MSH 24376

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THE FREE MAIL PRIVILEGE

PART OF AN ADDRESS OF FREDERIC A. TILTON, THIRD ASSISTANT POSTMASTER GENERAL, BEFORE THE CONVENTION OF THE NATIONAL ASSOCIATION OF POSTMASTERS, AT DETROIT, MICHIGAN, SEPTEMBER 11, 1930

Mr. President and Members of the National Association of Postmasters, and Visitors:

Many arguments are advanced by the press and other commentators as to why the department's objective of balancing the budget is not proper or expected and especially why the rates on first-class, or letter mail, should not be increased. The most frequent argument is that first-class mail already shows a profit. I have answered that in a previous address. It is charged that political operation is responsible for the deficit. I have previously answered that. It is charged that rural free delivery is responsible. The farmer will answer that.

Foremost, however, among the unenlightened criticisms is the old fetish that comes down to us from the time of our grandfathers; that is the mail that is carried free. You have all heard this criticism and have seen the cartoons and caricatures depicting the mailman struggling along the road under the load of congressional speeches, cookstoves, furniture, and other articles. With apologies for detaining you so long I propose to show: (1) That the franking privilege dates from the beginning of the Postal Service; (2) That at times it has been abused; (3) That a distinction should be drawn between congressional or franked mail, and departmental, official, or penalty mail; (4) That the former if rated at the regular rates would produce in revenue less than $1,000,000 per year which is less than 2 per cent of the true postal deficit; (5) That the free matter, franked and penalty combined, but not including free-in-county newspapers and the Post Office Department's own mail, comprises 0.63 of 1 per cent of the total weight and 1.13 per cent of the total number of pieces of all mail; (6) That the free-in-county mailings of country newspapers consist of 1.11 per cent of the weight and 1.63 per cent of the pieces of the total of all mail; (7) That all free mailings if rated at the regular postage rates would produce only $9,900,000; (8) That by the recently enacted law providing for the classification of extraordinary expenditures contributing to the deficiency of postal revenues the department will be credited by bookkeeping warrant with the full amount of the revenue equivalent of these items and it is hoped that thenceforth they will be removed as subjects for debate in all informed discussions of postal finances.

You, no doubt, are familiar with this legislation. While it represents a process of "debit here and credit there" as Amos and Andy would say, or as one illustrious Congressman stated, "A game of solitaire," it is hoped, nevertheless, that by labelling these services in the annual accounts that the much confused subject of postal finances will be clarified to that extent.

There are other foster children entrusted to our care which under the same act are to be similarly classified and separated. These are the ocean

mail subventions, the costs of the air mail service over the postage revenues derived from air mail and the difference between the postage revenue collected on newspapers and periodicals published by and in the interest of religious, educational, scientific, philanthropic, agricultural, labor, and fraternal organizations, and that which would have been collected at the zone rates of postage. We do not object to raising these children but we do object to providing for them. Some of our wards have been with us for a long time, free-in-county newspapers, for instance, were first authorized 79 years ago.

THE FREE MAIL PRIVILEGE

Referring to the charge that the franking privilege is responsible for our deficit, such comments and criticisms have indicated that there is a general lack of knowledge concerning the nature, purpose, history, and extent of the various laws under which matter is carried in the mails free of postage, as well as to the extent of the drain on the postal revenues resulting from the exercise of this privilege.

SELF-SUSTAINING THEORY FUNDAMENTAL

It will be helpful to review the legislation relating to the granting of the free mail privilege. According to the theory of the organization of the Post Office Department it was founded with the idea that it should be self-sustaining and because of the peculiar character of its functions should not be a charge on the common Treasury. The act of February 20, 1792, "To establish post offices and post roads in the United States," declared that "the Postmaster General shall provide for carrying the mail of the United States," and "shall defray the expense thereof, with all other expenses arising on the collection and management of the revenue of the post office." This idea that the Post Office Department should be operated on a self-sustaining basis was carried out in subsequent legislation. The act of May 8, 1794, authorizing the Postmaster General to contract for "the carriage of a mail on any road on which a stage, wagon, or other stage carriage shall be established" provided for such service "on condition that the expense thereof shall not exceed the revenue thence arising."

In 1836 Congress provided that "the aggregate sum required for the service of the Post Office Department in each year shall be appropriated by law out of the revenues of the department." This self-sustaining principle in the operations of the Post Office Department was continued from the foundation of the Government up to 1838 with only occasional and slight exceptions at remote intervals, the receipts almost constantly exceeding the expenditures.

POLICY OF THE CONTINENTAL CONGRESS CONTINUED

Notwithstanding the Post Office Department was established on the theory that it should be self-sustaining, we find that during the first session of Congress a law was enacted, act of September 22, 1789 (1 Stat. 70), continuing the free-mailing privilege accorded certain officials who enjoyed such privilege under ordinances passed by the Continental Congress. The ordinance of October 18, 1782, provided that letters, packets, and dispatches to and from the Members and Secretary of Congress while actually attending Congress, to and from the commander in chief of the armies of the United States or commander of a separate army, and to and from the heads of the Departments of Finance,

War, and Foreign Affairs, sent on public service, should be carried free of postage.

The ordinance of December 24, 1782, extended this privilege to the Inspector General, The Adjutant General, Director of Hospitals, Quartermaster General, Commissary of Prisoners, Paymaster General of the Army of the United States and the officers at the head of the like departments in any separate army, for the purpose of sending letters on public business in the mails. This ordinance also provided that letters on public business mailed to such officials should be carried free of postage.

EXTENSION OF THE PRIVILEGE UNDER THE FEDERAL CONSTITUTION

The act of March 3, 1791 (1 Stat. 218), authorized the receipt and conveyance by post free of postage of all letters to and from the Treasurer, Comptroller and Auditor of the Treasury, and the Assistant to the Secretary of the Treasury on public service.

Under the act of February 20, 1792 (1 Stat. 237, 238), the free-mail privilege was extended to all letters and packets to and from the President and Vice President; all letters to and from the Secretary and Assistant Secretary of the Treasury, the Comptroller, Register, Auditor, Treasurer, Secretary of State, Secretary of War, commissioners for settling accounts between the United States and individual States, the Postmaster General and his assistant, and all letters and packets not exceeding 2 ounces in weight to or from any Member of the Senate or House of Representatives, the Secretary of the Senate, or Clerk of the House of Representatives, during their actual attendance in any session of Congress, and 20 days after such session. The same act provided for the first extension of the free-mail privilege to others than officials of the Government, such provision authorizing every printer of newspapers to send one paper to each other printer of newspapers within the United States free of postage under such regulations as the Postmaster General should prescribe.

In 1794, 1796, and 1798, Congress extended the free-mail privilege to additional officers of the Government, namely, the Commissioner of Revenue and deputy postmasters, to James White, the Delegate to Congress from the Territory of the United States south of the River Ohio, the Accountant of the Department of War, and the Secretary of the Navy.

The act of March 3, 1797 (1 Stat. 512), provided that "all letters and packets to George Washington, now President of the United States, after the expiration of his term of office and during his life, shall be received and conveyed by post free of postage." Under a provision of the act of March 2, 1799 (1 Stat. 737), such privilege was extended to all letters and packages both to and from George Washington. This act also extended the franking privilege to postmasters and certain other designated additional officials.

After the death of George Washington, Congress, by the act of April 3, 1800 (2. Stat. 19), provided that all letters and packages to and from Martha Washington, widow of Gen. George Washington, "shall be received and conveyed by post free of postage for and during her life." The precedent thus set by Congress in according the franking privilege to Martha Washington has been consistently followed, and the widows of all ex-Presidents have been granted such privilege. However, beginning with Mrs. Ida S. McKinley, the privilege has been made applicable only to matter mailed by such widows and not to that sent to them.

From time to time the free-mail privilige was extended to other officers of the Government. Time does not permit a detailed enumeration of the many

grants of such privilege, and I shall, therefore, refer only to those which may be of particular interest.

The precedent which was set in according the free-mail privilege to letters and packets sent to and by George Washington, the first ex-President of the United States, was followed in the cases of John Adams, Thomas Jefferson, and James Madison. The general act of March 3, 1825 (4 Stat. 110), made this privilege applicable to "such individual who shall have been or may hereafter be President of the United States," and this provision continued in force until repealed by the act of March 3, 1863 (12 Stat. 708). Since that time the franking privilige has not been extended to our ex-Presidents.

It is interesting to note that separate acts were passed by Congress on different dates in extending the free-mail privilege to matter sent to and by ex-Presidents Washington, Adams, Jefferson, and Madison, one act in each case providing for such mailing of matter sent to them and another for the franking of matter mailed by them.

Beginning with the act of April 13, 1808 (2 Stat. 483), special acts were passed authorizing Members of Congress, the Secretary of the Senate and the Clerk of the House of Representatives, to transmit free of postage the message of the President of the United States, these several acts specifying the particular messages to be so mailed.

The act of February 27, 1813 (2 Stat. 806), provided that "all letters or packages not exceeding one-half ounce in weight, containing vaccine matter or relating to the subject of vaccination, shall be carried by mail, free of postage, to or from the agent appointed to carry out the provisions of the act to encourage vaccination."

FIRST REFERENCE TO UNLIMITED WEIGHT

In the acts of July 24, 1813 (3 Stat. 39), and April 18, 1814 (3 Stat. 139), extending the free-mail privilege to the Commissioner of the Revenue, we find the first provision for the acceptance of such matter "of whatever weight." Prior acts either were silent as to the weight limit or fixed it at 1 or 2 ounces.

The act of April 18, 1814 (3 Stat. 133), authorized the Secretary of State to mail free of postage documents printed by either House of Congress, consisting of communications and reports made to Congress by the President and heads of departments.

The act of March 3, 1825 (4 Stat. 110), was a general act and renewed the free-mail privilege for the officials and persons provided for in previous acts. This act extended the period during which Members of Congress might exercise the franking privilege to include a period of 60 days before and after any session of Congress and stipulated that in case of letters or packets exceeding 2 ounces in weight postage should be paid on the excess weight. One of its provisions permitted postmasters to send and receive free of postage letters or packets not exceeding one-half ounce in weight. The act also provided that each of the persons to which the act applied might receive newspapers by post free of postage with the condition that postmasters should not so receive more than one daily newspaper each or the equivalent thereto.

By resolution of May 23, 1828 (40 Stat. 320), Charles Carroll of Carrollton, the only surviving signer of the Declaration of Independence, was authorized to receive and transmit letters and packages by mail free of postage.

The act of July 30, 1834 (40 Stat. 740), provided that "the governors of the several States may transmit by mail free of postage, all letters, reports, records, and documents of their respective States which may be directed by the legislatures of the several States to be transmitted to the executives of other States."

Apparently some abuse must have arisen in the exercise of the free mail privilege accorded postmasters, since we find in the Act of July 2, 1836 (5 Stat. 88), a provision that no postmaster shall receive "free of postage or frank, any letter or package containing anything other than paper or money."

The act of March 3, 1845 (5 Stat. 732–735, 739), repealed all prior acts, except the acts according the franking privilege to ex-Presidents and widows of ex-Presidents, conferring upon any person whatsoever the right or privilege to receive and transmit any matter through the mails free of postage, but it also restored the free-mail privilege in part. Among the interesting features of this act may be mentioned the continuation of the exchange free of postage of newspapers between the publishers thereof and the authorization of the transmission free of postage of all newspapers of not more than 1,900 square inches in size by the publishers thereof to all subscribers or other persons within 30 miles of the place of publication.

FIRST PROVISION FOR SEPARATE ACCOUNTING

Another provision of this act required that all officers of the Government theretofore having the franking privilege to keep account of all postage charged to and payable by them on official matter received through the mails, such accounts for postage to be allowed and paid quarterly out of the contingent fund of the bureau or department to which the officers were attached. The same provision was made applicable to official matter received by postmasters. The three Assistant Postmasters General were permitted to have remitted by the postmaster in Washington all postage charged upon matters received by them touching the business of the Post Office Department. Such assistants were also authorized to mail free of postage any matter relating exclusively to their official duties, the matter to be indorsed over their signatures "Official business." A like privilege was accorded to the deputy postmasters.

PROVISION FOR COMPENSATING THE DEPARTMENT

Then, too, the act of March 3, 1845, required the Postmaster General to cause accounts to be kept of the postage that would have been chargeable at the regular rates on all matter passing free through the mails, the sum thus chargeable to be paid to the Post Office Department from the funds of the two Houses of Congress and of the other departments of the Government for which the free-mail service was performed, and where there was no such fund the accounts were to be paid out of the Treasury of the United States. In this provision we find the first comprehensive arrangement to compensate the Post Office Department for the handling and carrying of free mail. However, it did not remain in force very long, for the act of March 3, 1847 (9 Stat. 200–203), repealed it and provided that the Post Office Department should be paid $200,000 from the Treasury for each year's mail service performed for the several departments of the Government.

FREE-IN-COUNTY NEWSPAPERS

The act of March 3, 1851 (9 Stat. 588, 591), provided that weekly newspapers should circulate in the mails free of postage within the county where published, the so-called free-in-county mailing privilege for publications dating from that time.

The same act provided that the Post Office Department should be paid $500,000 per year out of the Treasury for the mail service performed by the

department for the two Houses of Congress and the other departments and offices of the Government in the transportation of free matter.

FREE-MAIL PRIVILEGE ABOLISHED IN 1873

In 1872 there was a general revision of the laws governing the free-mail privilege with a number of additions and modifications touching the persons entitled to exercise such privilege, the character of the matter acceptable, and other details. This law was in existence only a brief time, for by the acts of January 31, 1873, and March 3, 1873 (17 Stat. 421, 542, and 559), the franking privilege was abolished from and after July 1, 1873, and all official correspondence and other matter formerly mailed free was made subject to the same rates of postage as apply to matter sent by the public, and the Postmaster General was directed to prepare and supply special stamps and stamped envelopes to each of the executive departments at the price for which stamps and stamped envelopes of like value were sold at the several post offices, to be used, beginning July 1, 1873, for official matter only.

FREE-MAIL PRIVILEGE RESTORED IN 1874

Beginning with the act of June 23, 1874 (18 Stat. 233), renewing the free-in-county mailing privilege for newspapers, Congress gradually began restoring the free-mail privilege. By the act of March 3, 1877 (19 Stat. 335, 336), Congress established what is now known as the penalty privilege under which official matter of the departments of the Government is carried in the mail free of postage and discontinued the provision for paying the Post Office Department for the service thus rendered free as had been done during the 26 years prior to July 1, 1873.

CONDITIONS NOW IN FORCE

This brings me to the point where I can take up the free-mail privilege as it is now in force. Before discussing the nature and extent of such privilege it may be well to define the different kinds of free mail carried by the Post Office Department. It may be divided into three classes—congressional franked mail, official penalty mail, and personal free mail.

Congressional franked mail embraces correspondence, the Congressional Record and extracts therefrom, public documents, and other matter which may be lawfully mailed free of postage by the Vice President and Members of and Delegates in Congress, including public documents mailed by the Secretary of the Senate and Clerk of the House of Representatives.

Penalty mail embraces the official matter mailed free of postage by the officers of the executive, judicial, and independent establishments of the Government.

Personal free mail is that which Congress has authorized private persons, either as a measure of public welfare or in pursuance of an established public policy, to send through the mails without payment of postage.

The term "franked mail" and "penalty mail" are sometimes confused. The term "franked mail" is specially applied to matter mailed by Members of Congress and is so designated because of the requirement that the Member shall place his name or "frank" on the envelope, while "Official penalty mail" is known as such for the reason that the law requires the penalty for its improper use to be printed on the envelope or wrapper inclosing the matter.

The different kinds of free matter in the mails may be briefly summarized as follows:

CONGRESSIONAL FRANKED MAIL

Any mail matter to any Government official or to any person, correspondence, not exceeding 4 ounces in weight, on official or departmental business.

The Congressional Record or any part thereof or speeches or reports therein contained, and public documents printed by order of Congress.

EXECUTIVE AND JUDICIAL OFFICIAL PENALTY MAIL

Letters, packages, or other matter relating exclusively to the business of the Government of the United States, mailed by officers of the Government, the Smithsonian Institution, National Home for Disabled Volunteer Soldiers, and the Pan American Union; official correspondence of the Superintendent of Documents, and that concerning the Congressional Directory under the direction of the Joint Committee on Printing.

Any official authorized to use penalty envelopes may inclose them with return address to any person or persons from or through whom official information is desired for use only to cover such official information and indorsements relating thereto.

All mail matter of whatever class or weight, relating to the census and addressed to the Census Office or to any official thereof and indorsed "Official Business, Census Office."

All mail matter relating to naturalization, including duplicate papers required by law or regulation to be sent to the Bureau of Naturalization by clerks of State or Federal courts, addressed to the Department of Labor or the Bureau of Naturalization, or to any official thereof and indorsed "Official Business."

PERSONAL FREE MAIL

Publications of the second class mailed to subscribers residing in the county where printed and published, except when addressed for delivery at a letter-carrier office.

All mail matter sent by Frances F. Cleveland (Preston), widow of the late Grover Cleveland, Mary Lord Harrison, widow of the late Benjamin Harrison, Edith Carow Roosevelt, widow of the late Theodore Roosevelt, Edith Bolling Wilson, widow of the late Woodrow Wilson, and Helen H. Taft, widow of the late William Howard Taft, under the written autographed signature of each.

Annual reports and bulletins or reports of progress of experiment stations of State agricultural colleges established under the provisions of the Morrill Act of July 2, 1862, bearing the frank of the director of such stations.

Correspondence, bulletins, and reports for the furtherance of cooperative agricultural extension work mailed by the director of extension work or other designated officer connected with the extension department of the agricultural colleges in the several States receiving the benefits of the act of Congress of July 2, 1862, and supplementary acts.

Books, pamphlets, and other reading matter in raised characters for the use of the blind in single volumes not exceeding 10 pounds in weight, or in packages not exceeding four pounds in weight, and containing no advertising matter, mailed by public institutions for the blind or by public libraries as a loan to blind readers, or when returned by the latter to such institutions or public libraries.

Magazines, periodicals, and other regularly issued publications in raised characters for the use of the blind which contain no advertisements and for which no subscription fee is charged.

Articles sent to the copyright office, Washington, D. C., pursuant to the provisions of the copyright law, act of March 4, 1909, such articles to be delivered to the postmaster for transmission to the copyright office under cover of a penalty envelope or label of his office.

Volumes of the Holy Scriptures or any part thereof in raised characters for the use of the blind, which do not contain advertisements, when furnished without charge to a blind person by an organization, institution, or association not conducted for private profit.

VOLUME AND EXTENT OF PRESENT MAILINGS

It will be seen from this summary that the free-mail privilege covers a pretty wide scope and the question naturally arises as to the extent to which these various free-mail privileges are exercised. No regular record is kept of the number or weight of the pieces carried in the mails free of postage. Tests have been made, however, from time to time to ascertain the number of pieces of such matter, together with data as to their weight, cost of handling, postage that would have been chargeable at the regular rates, etc., and estimates have been made on the basis of such tests which give a fair idea of the volume of free mail. I have here a table embodying estimated figures with respect to free mail for the fiscal year 1929, which I will read to you:

	Number of pieces	Weight in pounds	Revenue at usual postage rates, including registry fees
Mailed under penalty privilege by departments and establishments of the Government exclusive of the Post Office Department	276,773,736	35,998,676	$8,169,170
Mailed under franking privilege by Members of Congress	37,273,270	4,825,410	957,964
Publications mailed free in county	454,992,720	74,711,571	747,115
Free matter for the blind	391,696	1,486,486	56,991
Total	769,431,422	117,022,143	9,931,240

The free matter, exclusive of that of the Post Office Department and the free-in-county publications, constituted 0.63 per cent of the total weight of all mail, and 1.13 per cent of the total number of pieces of such mail. The free-in-county mailings of publications constituted 1.11 per cent of the weight and 1.63 per cent of the pieces of the total of all mail.

As stated, the estimated postage which would have been chargeable at the regular rates on such matter carried free during the year is $9,931,240. Under the act of June 9, 1930, the Post Office Department will hereafter be credited with such postage in the statements concerning the receipts and expenditures of the department.

ABUSES PAST AND PRESENT

The impression seems to prevail quite generally that there are serious abuses of the free-mail privilege. While an instance of the misuse of the free-mail privilege may arise occasionally, it is gratifying to be able to say that considering the wide extent of such privilege the instances of abuse are almost insignificant and, furthermore, that practically none of such instances are willful but due rather to a misunderstanding as to what is entitled to be mailed free.

This is not true, however, with respect to the past, for in years gone by there were many serious abuses of the free-mail privilege. It is interesting

to review the reports of the department covering bygone days, especially the periods when different laws than those now in force governed the free-mail privilege.

As I have already pointed out, the free-mail privilege has existed from the very beginning of the postal establishment, and it has been continued with the exception of a brief period from July 1, 1873, in some form or another. There were grave abuses of the privilege, particularly in the period immediately following the Civil War. In fact they were so serious that they resulted in the total withdrawal of the privilege for a time.

Postmaster General Randall, in his Annual Report for 1867, said:

"I am compelled again to call attention to the gross frauds perpetrated upon the department by violations of the franking privilege in almost all parts of the country. The facsimile franks of different Members of Congress are freely used to circulate obscene books and papers, lottery circulars, business cards, etc., and to cover all kinds of business and domestic correspondence of persons not authorized by law to frank mailable matter. Unless something is done speedily by Congress to check this serious mischief, the annual appropriation to cover the transmission of free matter will have to be increased from $700,000 to at least $1,000,000. To avoid the continuance of this serious abuse in the use of the names of Members of Congress without their knowledge or consent, I again urge that the law be so changed as to require the written signature of the person exercising the franking privilege upon the matter franked."

Again, in 1868, he said:

"It becomes my duty again to speak of the frauds perpetrated upon the revenues of the Post Office Department by these abuses. I have had occasion frequently during the past year to call the attention of Members of Congress to the use of their names in sending mailable matter free under a facsimile frank. Three dollars will buy the facsimile frank of any Member of Congress, and the use of it by claim agents and business men in cities in sending books, periodicals, letters, and business circulars, defrauds the department out of immense sums of money. It is estimated that the loss to the department by this species of abuse of the franking privilege has amounted to from $1,000,000 to $1,500,000 during the past year. * * * I have thus far failed to secure any attention to these urgent appeals and am becoming satisfied that the only way to avoid an abuse which is becoming systematized and which is so severe a tax upon the revenue of the department is to abolish the franking privilege altogether."

Postmaster General Creswell, in his report for 1877, stated:

"My experience in the administration of the Post Office Department for the past year has strengthened my convictions and has induced me again to call the attention of Congress to the great abuses which have grown to be a part of the system and to the uncompensated burdens which it imposes upon the service. I am thoroughly satisfied that if the franking privilege were repealed and all matter passing through the mails charged with its fair share of postage the department would in a short time become self-sustaining."

As a result of these abuses, "all laws and parts of laws permitting the transmission by mail of any free matter whatever" were repealed by the act of March 3, 1873. However, the privilege for public documents was restored in 1874, and for correspondence in 1891, and the various other provisions for sending matter in the mails free of postage which are now in force and which I have mentioned in the summary were gradually put into effect.

THE ADMINISTRATION OF THE STATUTES

The policy of Congress is contained in the statutes. The administration of the law is the function of the department. Members of Congress are careful scrupulously to observe the law governing the exercise of their franking privilege, not only because they are honorable men of the highest standing in their States and the Nation and they are anxious to do so, but even if this were not so, deference to public opinion would compel them to observe the law, since any misuse is resented by the public and severely criticized.

As indicating the care taken by Members of Congress to guard against any improper use of the frank, I may say that we receive frequent requests from Senators and Representatives to pass upon the frankability of the matter which they desire to mail to constituents so that they may make certain that the matter pertains wholly to "official or departmental business" and omit any statements which might be construed as personal. When, as occasionally happens, a Member of Congress inadvertently does send out matter under his frank which goes beyond what is entitled to be so mailed and the incident comes to attention postage is promptly paid thereon.

MEANING OF "PUBLIC DOCUMENTS"

There is one aspect of the fraking privilege which may sometimes lend itself to misapplication. I have reference to the fact that under the law public documents are mailable regardless of their weight. The term "Public documents" may sometimes cover a multitude of sins. I have in mind a case which arose some years ago when the secretary to a Congressman was enjoying fresh vegetables grown in the Congressman's district by having the products of the garden mailed to him at the expense of Uncle Sam in packages labeled "Public documents," but such cases are rare indeed.

As the Members of Congress change their residences from their home districts to Washington at the beginning of the sessions of Congress and at the close thereof return to their homes, some new Members, not yet familiar with the limitations applicable to the exercise of the franking privilege, occasionally prepare their official records exceeding four pounds in weight for transmission through the mails under their franks and are chagrinned when the fact is called to their attention that such matter is not frankable even though the containers are labeled "Public documents."

LIMIT OF WEIGHT UNDER PENALTY PRIVILEGE

In the case of official matter mailed under the penalty privilege by officers of the various departments, bureaus and establishments of the Government, the abuses are of a different nature. It is very rare indeed that the penalty privilege is used by an officer of the Government, or by any individual into whose hands penalty envelopes may come, to send purely personal or private matter. The misuse of the penalty privilege arises rather from the efforts of some officers of the Government to send in the mails free of postage under the penalty privilege, articles or packages exceeding the limit of weight which the law has prescribed for official matter. Such limit, except for single books, books and documents published or circulated by order of Congress, printed or written official matter mailed at Washington, D. C., internal-revenue stamps, postage stamps and other official matter of the Post Office Department, and matter relating to the census, is four pounds.

With the advent of the parcel-post system in 1913, and the increase in the weight limit for mailable matter provided for in connection with that system, the various departments and officials of the Government were permitted to send under the penalty privilege official matter up to the limt of weight applicable to parcel-post matter. As such limit was gradually increased until it was 50 pounds for the first and second zones and 20 pounds in the other zones, the burden imposed upon the postal service in handling official matter mailed under the penalty privilege up to these weights became quite serious and frequently the postal service was called upon to handle shipments of supplies which ordinarily would have been sent by freight, express or other means of transportation.

In one instance flour was shipped in carload lots under the penalty label of a branch of the Government. In another case the steel and other material used to erect bridges in a western national forest reserve was sent by mail in the same manner.

As the result of such misuse of the penalty privilege, the Department obtained legislation, act of May 18, 1916, limiting the weight of official matter, with the exceptions I have already mentioned, to 4 pounds. This legislation has served its purpose quite satisfactorily although occasionally an office or officer of the Government having what in fact constitutes a single shipment weighing in excess of 4 pounds intentionally divides the shipment into two or more parcels each weighing 4 pounds or less in order to send the shipment through the mails under the penalty privilege. Wherever this practice has come to attention the Department has instructed all concerned, including the postmasters involved, to the effect that the law limiting the weight of official matter to 4 pounds does not contemplate the division of shipments for the mere purpose of evading payment of postage. In applying this construction of the law, considerable discretion must be exercised since there are, of course, cases where what might appear to be a divided shipment going in several parcels, each weighing 4 pounds or less, consists of matters relating to separate and distinct transactions, the matter in no case pertaining to a particular transaction exceeding 4 pounds. Under such circumstances, no question is raised when an office or officer of the Government mails a number of packages to the same addressee.

MUST RELATE "EXCLUSIVELY TO THE BUSINESS OF THE GOVERNMENT"

In construing the statutes governing the transmission of matter in the mails free of postage under both the franking and penalty privileges some interesting questions are raised and sometimes the problem to be solved is rather difficult. I have already alluded to the cooperation on the part of Members of Congress with the Post Office Department in construing and administering the laws governing the franking privilege. With respect to the right to exercise the penalty privilege, the question often arises as to whether certain matter to be sent in the mails relates "exclusively to the business of the Government of the United States" as is required by law for matter mailable free under the penalty privilege. Again, in these times, when the Government is participating, either cooperatively or otherwise in so many activities carried on by the several States, etc., and when numerous commissions and other bodies are created to consider, celebrate, investigate, or what not, in connection with matters of more or less public interest, we are called upon to determine whether the persons designated to carry out these various functions constitute officers of the United States Government within the meaning of the law governing the exercise of the penalty privilege. It will be seen, therefore, that the administration of the laws governing the free mail privilege does not lack interest or novelty.

CONCLUSION

I have endeavored to cover in a brief and general way the scope and extent of the free-mail privilege and to discuss some of the features of more or less interest. I hope that this presentation of the subject may be of some value and serve to throw some light on some of its phases concerning which there appears to be a lack of general understanding.

U. S. GOVERNMENT PRINTING OFFICE: 1930

MSH 24376

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